

1 KEVIN V. RYAN (CSBN 118321)
United States Attorney

EUMI L. CHOI (WVBN 0722)
Chief, Criminal Division

4 KIRSTIN M. AULT (CSBN 206052)
Assistant United States Attorney

6 450 Golden Gate Ave., P.O. Box 36060
7 San Francisco, California 94102
7 Telephone: (415) 436-7151
7 Facsimile: (415) 436-7234

8 | Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 OAKLAND DIVISION

12 UNITED STATES OF AMERICA,)
13 Plaintiff,)
14 v.)
15 TIFFANY TAYLOR, CHRISTOPHER)
JOHNSON, JOHN MORGAN, KIM)
DRAGO, and MICHAEL DOWNEY,)
16)
17 Defendants.)
18 _____)

No. CR 05-00651 CW
STIPULATION AND [PROPOSED]
PROTECTIVE ORDER RE: DISCOVERY
OF PERSONAL AND FINANCIAL
INFORMATION
OAKLAND VENUE

With the agreement of the parties, and with the consent of the defendant, the Court enters
the following order:

Defendant Michael Downey is charged with two counts of conspiracy, in violation of 18 U.S.C. §371; one count of aggravated identity theft, in violation of 18 U.S.C. §1028A; and one count of access device fraud, in violation of 18 U.S.C. §1029. Upon request, the United States will produce to counsel for the defendant discovery that contains personal identifying information, including social security numbers, birth dates and driver's license numbers, and private financial information, including account numbers and locations, pertaining to the victims in this case. Pursuant to Federal Rule of Criminal Procedure 16, the government requests that disclosure of these materials be subject to the following restrictions:

PROTECTIVE ORDER
[CR 05-00651 CW]

1 1. Except when being actively examined for the purpose of the preparation of the
2 defense of defendant Michael Downey, the documents containing personal identifying and
3 private financial information of third parties produced by the government to defense counsel
4 ("private documents") shall be maintained in a manner such that it is accessible only to defense
5 counsel, employees of his or her law firm who are working with him or her to prepare the
6 defendant's defense, and his or her investigator. Defense counsel, members of his or her law
7 firm, the defendant, and the investigator shall not permit any person access of any kind to the
8 private documents or disclose in any manner the personal identifying and private financial
9 information of third parties except as set forth below.

10 2. The following individuals may examine the documents and information related to
11 the personal identifying and private financial information of third parties for the sole purpose of
12 preparing the defense of defendant Michael Downey and for no other purpose:

- 13 a) Counsel for defendant;
- 14 b) Employees of the counsel for the defendant's law office who are assisting
15 with the preparation of Michael Downey's defense;
- 16 c) Defendant Michael Downey and third-party fact witnesses, but only in the
17 presence of defense counsel or another authorized person listed in this
18 paragraph;
- 19 d) Investigators and experts retained by the defendant or his counsel to assist
20 in the defense of this matter.

21 If defense counsel determines that additional persons are needed to review the material, he or she
22 must obtain a further order of the Court before allowing any other individual to review the
23 material.

24 3. A copy of this order shall be maintained with the documents at all times.

25 4. All individuals other than defense counsel and the defendant who receive access
26 to the materials pursuant to this Order, prior to receiving access to the materials, shall sign a copy
27 of this Order acknowledging that

- 28 a) they have reviewed the Order;

- 1 b) they understand its contents;
- 2 c) they agree that they will only access the documents and information for the
- 3 purposes of preparing a defense for defendant Michael Downey;
- 4 d) they understand that failure to abide by this Order may result in sanctions
- 5 by this Court.

6 Counsel for the defendant shall promptly file signed copies of the Order, ex parte and under seal.
7 The government shall have no access to these signed copies without further order of the District
8 Court.

9 5. No other person may be allowed to examine the material without further court
10 order. Examination of the documents shall be done in a secure environment which will not
11 expose the materials to other individuals not listed above.

12 6. Documents such as word processing files, e-mails, and other text files may be
13 duplicated to the extent necessary to prepare the defense of this matter.

14 7. Any pleadings that reveal the personal identifying or private financial information
15 of third parties, either by attaching copies of documents containing that information or
16 referencing that information, shall be redacted to prevent the disclosure of such information or
17 filed under seal.

18 8. Within five court days of the judgement and sentencing hearing in this matter, or
19 dismissal of the charges, all private documents provided to defense counsel pursuant to this
20 Order, and all other authorized copies, if any, shall be returned to the Government. The
21 Government shall destroy them. If defendant believes that he must maintain the material for any

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

Case 4:05-cr-00651-CW Document 25 Filed 11/14/05 Page 4 of 4

1 reason related to appeal, defendant must seek authorization from the District Court within ten
2 days of the filing of a judgment in this matter.

3

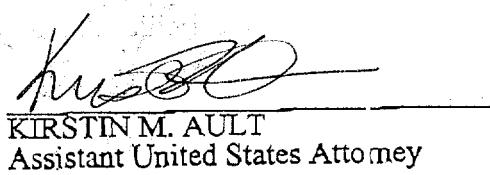
4 STIPULATED:

5

6 DATED: 11/9/05
JEROME MATTHEWS
Attorney for Defendant Downey

7

8

9 DATED: 11/9/05
KIRSTIN M. AULT
Assistant United States Attorney

10

11

12 IT IS SO ORDERED that disclosure of the above-described discovery materials shall be
13 restricted as set forth above.

14

15 DATED: 11/14/05

CLAUDIA WILKEN
United States District Judge

16

17

18

19

20

21

22

23

24

25

26

27

28

